

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
CLOSED CAPTIONING et al.)
)
New Beginning Ministries)
)
Petitions for Exemption from Closed Captioning)
Of the Diocese of Gaylord)
)
CGB-CC-0270)
CG Docket No. 06-181)

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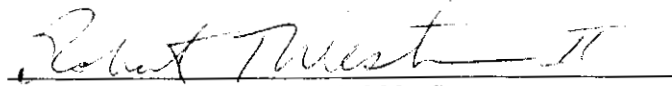
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APPEARANCE

To: Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

NOW COME the Diocese of Gaylord, by its attorney, ROBERT T. WESTERMAN II,
PLC, and enter his Appearance on behalf of the Diocese of Gaylord, pursuant to the statutes
made and provided.

Dated: May 7, 2007


Robert T. Westerman II (P-28256)
ROBERT T. WESTERMAN II, PLC
Attorneys for Diocese of Gaylord
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To: Darlene H. Dortch, Secretary
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445 12th Street, SW
Washington, DC 20554

**RESPONSE TO OPPOSITION TO PETITION FOR
EXEMPTION FROM CLOSED CAPTIONING
REQUIREMENTS FILED BY DIOCESE OF GAYLORD**

Robert T. Westerman II
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123 W. Main Street, Suite 202
Gaylord, MI 49735
(989) 732-2400

May 7, 2007

**RESPONSE TO OPPOSITION TO PETITION FOR EXEMPTION FROM CLOSED
CAPTIONING REQUIREMENTS FILED BY DIOCESE OF GAYLORD**

Petitioner, Diocese of Gaylord, requested an exemption from closed captioning rules on or about December 26, 2005, with regard to their one weekly Eucharistic Liturgy (Mass) recorded at St. Mary Cathedral in Gaylord, Michigan. The request was granted after careful consideration by Thomas E. Chandler, Chief Disability Rights Office, Consumer & Governmental Affairs Bureau. Opposition to the Petition for Exemption From Closed Captioning Requirements, filed by Diocese of Gaylord were submitted by various associations or entities supporting the deaf and hard of hearing on or about March 2, 2007.

The following is Petitioner's response to said Opposition:

I. Commission's Pertinent Rules and Statutes.

47 U.S.C. §613(e) and 47 C.F.R. §79.1(f) state that exemptions may be granted for a specific video program or video programming provider upon finding that the closed captioning requirements will result in an undue burden.

"The term 'undue burden' means significant difficulty or expense." 47 C.F.R. §79.1(f)(2).

Also, any video program or video programming provider shall be exempt whenever it is a locally produced and distributed non-news program with no repeat value. 47 C.F.R. §79.1(d)(8). In a recently issued Order granting exemptions from the closed captioning requirements under the undue burden standard, the consumer and Governmental Affairs Bureau noted that it is important to:

"Balance the need for closed captioned programming against the potential for hindering the production and distribution of programming".¹

¹ *In the Matter of Anglers for Christ Ministries, Inc., New Beginning Ministries, Video Programming Accessibility Petitions for Exemption from Closed Captioning Requirements, Case Nos. CGB-CC-0005 and CGB-CC-0007, Memorandum Opinion and Order, DA 06-1802, (CGB rel. Sept 11, 2006).*

The Bureau goes on to say that when considering an exemption petition filed by a non-profit organization that does not receive compensation from the airing of its program and, in the absence of an exemption, may terminate or substantially curtail the program:

“We will be inclined favorably to grant such a petition because . . . this confluence of factors strongly suggest that mandated closed captioning would pose an undue burden on such a petitioner.”²

II. Diocesan Factual Background.

As set forth in the Diocese of Gaylord Request for Exemption from Closed Captioning Rules, as well as the Affidavit of Candace Neff, Director of Communications for Diocese of Gaylord (attached as Exhibit A), the Diocese of Gaylord began providing video tape of the weekly Eucharistic Liturgy (Mass) from St. Mary Cathedral in Gaylord, Michigan, to WFQX (Fox 33), a small Fox network affiliate station located in Cadillac, Michigan, for broadcast on Sunday mornings to the ill and homebound of our diocese. The Diocese of Gaylord consists of the twenty-one most northern counties of Michigan (Lower Peninsula), which is primarily a rural area. As an ecclesiastical non-profit institution, the church must be relied upon to balance the many financial needs of serving various people within rural Northern Michigan, especially the poor, ill, disabled, elderly and homebound. Because there is no broadcast station located in Gaylord (the nearest station is more than sixty-five miles away), and the overall rural nature of the area, it is impossible to broadcast the weekly Eucharistic Liturgy live. However, the liturgical guidelines of the Roman Catholic Church provide that the participation in the Saturday vigil Eucharistic Liturgy does fulfill the same obligations and generally carries the same readings as the Sunday liturgy. Therefore, the Diocese of Gaylord contracted with WFQX Fox 33, a

² *Id.* At para 11 (citation omitted).

small Fox network affiliated located in Cadillac, Michigan (1½ - 2 hours from Gaylord via automobile) to broadcast the weekly Mass. WFQX's broadcast territory substantially corresponds to the territory of the Diocese of Gaylord. (See Candace Neff Affidavit Exhibits 1 and 2). The Bishop of the Diocese of Gaylord has approved the taping of the Saturday Mass for broadcast on Sunday morning and great care is taken to maintain the integrity of the liturgy (see Candace Neff Affidavit Exhibit 3).

As explained by Ms. Neff, none of the individuals involved in videotaping the liturgy have extensive training in camera operation, etc., but are learning "on the job". There are no professional engineers involved in the production process. Each week the regularly scheduled Saturday Evening Mass at St. Mary Cathedral (currently held at 5:00 p.m.) is videotaped by Candace Neff and/or an assistant utilizing parish volunteers as it is being celebrated live by the priest and congregation. The Program is then minimally edited to conform to the one hour time period allocated for broadcast. This the only program the Diocese of Gaylord currently produces. The editing of the Mass utilizes the equipment installed at St. Mary Cathedral and is entirely produced on site.

The completed tape of the Mass is given to a courier at 9:00 p.m. on that same Saturday evening for transportation to the station in Cadillac. In order to be broadcast at 8:00 a.m. on Sunday morning, the tape must be delivered by midnight to the Cadillac station.

The Roman Catholic Liturgy is governed by the General Instructions of the Roman Missal and specific liturgical guidelines. Readings and prayers are appointed for each specific week and proclaimed live. Because each week is designated with particular readings and focus of the liturgy, there is no repeat value to the programming. Due to the time, geographic region, broadcast area and liturgical guidelines involved, it is a practical impossibility for the Diocese of

Gaylord to include closed captioning in its weekly Mass. Because the tape has no repeat value, the Mass must be televised the same weekend in order to correspond with the liturgical guidelines of the Roman Catholic Church. The priest's homilies, readings and many prayers are different each week. In the case of the homilist at St. Mary Cathedral on Saturday evenings, Fr. John McCracken, homilies are not written. (See Candace Neff Affidavit Exhibit 4). The Diocese of Gaylord has been searching for alternate means of providing closed captioning without success. (See Candace Neff Affidavit, Exhibit A). The Diocese of Gaylord has not been able to find any source within any reasonable geographic distance of Gaylord which has the time or ability to encode closed captioning on the tape between the hours of 9:00 p.m. on Saturday – 8:00 a.m. on Sunday morning.

The weekly televised Mass is not a news program and the Diocese of Gaylord receives no compensation for airing the Mass. The primary purpose for the broadcast of the Eucharistic Liturgy is to provide those Roman Catholics of our Diocese or others who are ill, disabled, elderly, homebound or otherwise separated from the Church, access to a local weekly liturgy.

Additionally, the program's budget is \$50,000.00. The cost to purchase encoding equipment and hire trained personnel to encode captioning on the tape and deliver it to the local station, even if somehow possible, would conservatively cost another fifty percent (50%) and be cost prohibitive. (See Candace Neff Affidavit, Exhibits 5 and 6).

Barring greater technological advances and price reductions in the area of encoding closed captioning by the smaller church or non-profit consumer, an order compelling the Diocese of Gaylord to provide closed captioning in this case, for this solitary one-hour non-repeatable Eucharistic Liturgy will force cancellation of the Sunday Mass on WFQX Fox-33.

III. Argument.

While the Catholic Diocese of Gaylord certainly understands, appreciates and supports the factors contributing to the Commission's requirements of Closed Captioning for most programs, the Diocese's commitment to providing the televised Mass is also consistent with its faithfulness and mission to address the spiritual needs of a multitude of homebound, ill, disabled and elderly adults, as well as those suffering from hearing impairments.

Because the Mass is a non-repeatable program and there are substantial and logistical difficulties being faced by this rural Diocese in providing closed captioning for this televised Mass, the Diocese submits that those are exactly the type of difficulties which impose and define an undue burden upon this Petitioner as envisioned by the Statutes and C.F.R. 79.1(f)(2) of the Commission's rules. According to the Commission: "Undue burden shall be evaluated with regard to the individual outlet". (See attached Exhibit B). While other larger metropolitan Dioceses might have many different options at their disposal which would allow for closed captioning, the difficulties facing this diocese, do not. These situations are exactly the reason why the Commission has established exceptions to the general rule and are allowing exemptions to individual outlets when circumstances so warrant.

Aside from the logistical difficulties, even if somehow the Diocese were able to locate appropriate personnel and stations to accommodate the eleven-hour window between production and airing of the program, the financial consideration involved make the continuation of the televised Mass cost-prohibitive if the exemption is not granted.

In addition to the “no repeat value” nature of the taped Mass being a factor in the logistical difficulty and undue burden particularly facing the Diocese of Gaylord in this instance, Section 79.1(d)(8) of the Commission’s Rules allows an exemption, in and of itself, for “locally produced and distributed non-news programming with no repeat value”. It has been suggested by at least one opposition statement that Section 79.1(d)(8) is inapplicable allegedly due to the perceived limited definition of “video programming distributor” through the Rules. However, Section 79.1(d)(8) specifically states that “locally produced and distributed non-news programming with no repeat value” is exempt. Also, Section 79.1(a)(2) describes a video programming distributor as:


“Any other distributor of video programming for residential reception that delivers such programming directly to the home and is subject to the jurisdiction of the Commission. An entity contracting for program distribution over a video programming distributor . . . shall itself be treated as a video programming distributor for purposes of this section . . . to the extent such video programming is not otherwise exempt from captioning, the entity that contracts for its distribution shall be required to comply with the closed captioning requirements of this section.”

In the instant case, since the Diocese of Gaylord is locally producing and distributing, or contracting to distribute the video program, the exemption allowed under Section 79.1(d)(8) for “no repeat value” is wholly applicable. In fact, the Sunday Mass is precisely the type of locally produced, non-news programming that should qualify for this exemption. It is the only Catholic Mass produced and broadcast to the entire Northern Michigan television audience. Without it, thousands of ill, disabled, elderly and homebound individuals will not be able to partake in this Eucharistic Liturgy.

VI. Conclusion.

For the foregoing reasons, an exemption from the FCC's closed captioning requirements for this one weekly program, the Diocese of Gaylord's one-hour Sunday Mass at 8:00 a.m., is warranted and necessary in order to best serve the public interest.

ROBERT T. WESTERMAN II, PLC

By: 
Robert T. Westerman II (P-28256)
Attorney for the Diocese of Gaylord
123 W. Main Street, Suite 22
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(989) 732-2400

Dated: May 7, 2007

EXHIBIT A

Before the

CLOSED CAPTIONING et al.

Petitions for Exemption from Closed Captioning Of the Diocese of Gaylord

CG Docket No. 06-181

To: Darlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

**AFFIDAVIT OF CANDACE NEFF, DIRECTOR OF
COMMUNICATIONS, DIOCESE OF GAYLORD**

[illegible]

CANDACE NEFF, being first duly sworn, deposes and says as follows:

The Roman Catholic Diocese of Gaylord is comprised of the 21 most northern counties of Michigan's lower peninsula which is substantially a rural area. (See attached Exhibit 1.) Our primary industries are agriculture and tourism. Michigan, in general, has been facing significant economic hardship with many businesses leaving the state or closing their doors entirely. Many of the people living in our diocese are retirees who have moved here from more urban areas to enjoy the region's natural beauty and less populated communities. In the winter, snow and icy conditions can make travel in northern lower Michigan quite difficult and particularly hazardous for our elderly.

In an effort to minister to those who are ill, homebound or otherwise separated from the church, in July of 2005 the Diocese of Gaylord began providing videotape of the weekly Eucharistic Liturgy (Mass) from St. Mary Cathedral in Gaylord, Michigan to WFQX (Fox 33) for broadcast on Sunday mornings.

There are a total of four television stations within the entire 21-county area of the Diocese of Gaylord, the nearest station being 65 miles away from Gaylord. All four stations were considered and evaluated prior to our contracting with WFQX. One station only covers three of our 21 counties on the east side of the diocese; one station did not have an appropriate timeslot available due to prior commitments and declined further negotiations; the last station was eliminated because we could neither meet their time nor monetary requirements for them to be able to air the Mass.

WFQX is a small Fox network affiliate station located in Cadillac, Michigan, which is approximately 95 miles away. WFQX broadcast territory substantially corresponds to the local territory of the Diocese of Gaylord. (See attached Exhibit 2) The taped liturgy is not distributed to any other broadcast outlet. The Diocese pays for air time to broadcast the Mass on WFQX. We do not receive any remuneration from the station for carrying the Mass.

St. Mary Cathedral in Gaylord is the mother church of the diocese and the Most Rev. Patrick R. Cooney, Bishop of the Diocese of Gaylord, decreed the Mass would be televised from St. Mary Cathedral and in compliance with the "Guidelines for Televising the Liturgy." (See attached Exhibit 3.) In part, the guidelines state:

- The bishop of a diocese in which a televised Mass is produced has the responsibility to see that liturgical law is carefully observed, especially regarding the liturgical feasts and seasons.
- Whenever possible, the liturgy should be telecast live. When this is not possible, consideration may be given to pre-recording the liturgy. A liturgy that is pre-recorded for delayed telecast should be taped as it is celebrated in a local worshipping community and then be telecast at a later time on the same day... In order to reflect the integrity of the liturgical year, a pre-recorded liturgy should be taped on a date as close as possible to the dates of the actual telecast.
- Since the liturgy is the work of Christ and the work of God's people, the televised Mass should always be celebrated within a living community of God's people whose presence reveals the full, conscious and active participation of the faithful.

Because of the distance between Gaylord and the nearest broadcast station, as well as the overall rural nature of the area, it is impossible to broadcast the weekly Eucharistic Liturgy live. However, the liturgical guidelines of the Roman Catholic Church provide that participation in the Saturday Vigil Eucharistic Liturgy does fulfill the same obligations and typically carries the same readings as the Sunday morning liturgy.

In keeping with the liturgical guidelines of the Roman Catholic Church, Bishop Cooney (who also holds an additional Masters Degree in Liturgical Research) has approved the taping of

the Saturday evening Mass for broadcast on Sunday morning of the same weekend. Great care is taken to maintain the integrity of the liturgy.

Each week the regularly scheduled Saturday evening liturgy at St. Mary Cathedral (held at 5:00 p.m.) is videotaped by me and/or my assistant utilizing parish volunteers as it is being celebrated live by the priest and congregation. None of the individuals involved in videotaping or producing the liturgy have extensive training in camera operation, editing, etc., but learn "on the job." There are no professional engineers involved in the production process. The Mass is videotaped and edited using equipment installed in what was previously a storage room of at St. Mary Cathedral and is produced entirely on site. Our annual total budget for production and television broadcast of the Mass is \$50,000. This includes airtime, courier expenses, equipment maintenance, supplies, etc.

The Mass typically ends around 6:10 p.m. The program is then minimally edited to conform to the one hour time period allotted for broadcast. The edited program is then copied (in real time) to a tape which is presented to a courier for transport to the station. This transfer must take place no later than 9:00 p.m. on the same Saturday evening. The tape must be delivered to the station in Cadillac no later than midnight so that it can be broadcast on Sunday morning (currently at 8:00 a.m.) of the same weekend in order to correspond with the liturgical guidelines of the Roman Catholic Church.

Arvilla Rank, Secretary of the International Catholic Deaf Association – United States, in her comment opposing our petition, makes the generalized and unsupported statement that "Most of the Masses are taped weeks in advance..." This statement is completely untrue with regard to the Diocese of Gaylord. Our Mass is taped live and fully post-produced within less than three hours of its conclusion. It is broadcast approximately eight hours after receipt at the station in order to maintain close adherence to the guidelines as set forth by the Roman Catholic Church.

Further Ms. Rank states, "Many priests prepare a typed copy of their homily..." This statement as well is not true in our situation. Fr. John McCracken, Rector of St. Mary Cathedral and presider over the Mass, does not preach from a prepared text. He delivers his homilies extemporaneously. He does not use a script or a written outline. (See attached Exhibit 4.)

Ms. Rank also states that "a large part of the Mass is repeated each time." While there are a few instances where the congregation joins in common prayer or response which may be repetitive, the readings, prayers, responses, intercessions, songs, homily and homily are actually keyed to the specific week. In fact, each week is designated with particular readings and a focus for the liturgy which is why there is no repeat value to the programming. In addition, sacraments such as baptism during the Mass, anniversaries, liturgical seasons, Feast days and special events all can change the format of the Mass or placement of liturgical elements. Because of these changes and the technological limitations, it is not possible to "pre-caption" in any way to include the few elements which may repeat for future tapings.

Contrary to Ms. Rank's assertion, sending a tape out to a captioning company and getting it back in time for broadcast is simply not possible in our situation.

In an effort to further address the needs of the deaf and hard of hearing, we have sought assistance from several closed captioning companies as well as equipment manufacturers. Most of the closed captioning companies we talked with required tapes to be sent to them in advance with a turn around time of a few days at a minimum. The nearest closed captioning company is approximately 200 miles away.

While we understand the propensity to believe all communities and regions are relatively similar, it is important to understand there are vast differences between rural and urban areas. The same facilities, businesses, and technology are not available in rural communities as in the metropolitan regions. As a small diocese with few options for broadcast, it was a significant challenge for us to be successful in getting the Mass on the air. It wasn't until WFQX was able to assist us in finding a courier that we were able to move forward.

We have explored the potential to have the captioned live. We have been informed that in order for the Mass to be captioned live during broadcast (thus after production), this would have to be accomplished at the station. WFQX is a very small affiliate station without the necessary equipment or personnel to provide this service to us.

We also explored options for "on site" captioning during the production process. As we understand it, because the Mass is taped live and there is no script, one option would be to transcribe the Mass after the editing was completed. Then, using specialty software, the transcribed text could be loaded to a tape and then yet another master created (in real time) which would include all three elements of video, audio and captions. We have been informed this solution would at a minimum require an encoder (\$3,090), captioning software (\$1,995), a computer (\$3,699), and a master deck (\$5,999). (See attached Exhibit 5.)

Of course there would also be installation costs which would be additional which have not been estimated. Further, because of the technical aspect of this work, we do not feel we could utilize volunteers. Hence, we would also have to add staff to transcribe the Mass and then to incorporate the text onto the video at an estimated minimum cost of \$12,000 annually, assuming people with the appropriate skills could be found in our area. This additional total costs of \$26,783 would increase the current cost of the Mass (\$50,000) by more than 50% bringing the total cost to approximately \$76,783.

However, even if the diocese could find appropriate personnel and some way to fund the additional cost, the time involved to transcribe after editing and then incorporate the captions and dub back to the tape would exceed the available timeframe in order to get the tape to the station in time for broadcast.

A second option is to use voice recognition software. As we understand, in this scenario we would need to purchase special voice recognition software, related peripherals, encoder and a computer which is sold as a package (\$12,875) and master deck (\$5,999). (See attached Exhibit 6.) In addition, we would need to install a local area network in the cathedral so that the voice captioner could be remotely located to a sound proofed or substantially quiet area to better assure accuracy. Additional staff (\$12,000) would also be required in this option to initially program the software and then repeat back what is said and then correct any inaccuracies.

Consistency in the voice captioner is key to this being successful. However, again, the time constraints for transport of the completed program prevents this from being a viable solution. The costs associated with this alternative (an additional \$30,874) would increase the overall cost of the Mass (currently \$50,000) to at least \$80,874 or an additional 60%. Thus, in addition to the time constraints, the additional costs would be prohibitive to continuing the broadcast.

Because of the rural nature of our area and the fact that the program is produced on a Saturday evening, in neither option above would we have access to technical assistance should a problem arise in the captioning process.

Having exhausted the currently available closed captioning options, we then considered the possibility for a sign language interpreter. However, again due to the rural nature of our area, we have been unable to locate personnel who could provide this service. There are no universities located within the boundaries of our diocese, though some do offer classes as off-campus opportunities primarily in business, vocational education, and health related fields. We do have a few community colleges, but the nearest one is 40 miles away.

We agree with Ms. Rank that faith-based and religious television programs offer and reach out to people who seek spiritual guidance. She clearly demonstrates her agreement with us that we are providing a much needed ministry to those in our area as she states that the "Catholic Mass on television is intended to enable people to observe and participate in it – especially if they are ill or elderly." We have heard from many infirmed and other individuals -- Catholic and non-Catholic alike -- who suffer with a myriad of personal circumstances which keep them from attending a church that our televised Mass lifts their spirit, enriches their faith, and provides them hope in a sometimes very lonely existence. (See attached Exhibit 7.)

The Pastoral Statement of the US Catholic Bishops on People with Disabilities from 1978 referred to by Ms. Rank challenged us to work "for a deeper understanding of both the pain and potential of our neighbors who are blind, deaf, mentally retarded, emotionally impaired, who have special learning problems, or who suffer from single or multiple physical handicaps – all those whom disability may set apart." It reflects concern for all people who need special assistance, not solely those who are deaf or hard of hearing.

Some thirty years have passed since that document was introduced and many strides have been made to include in the life of the Church to minister to those with differing abilities. More and more parishes are barrier-free, lighting is improved and structures have been redesigned. St. Mary Cathedral, as well as many of the churches in our diocese, does provide personal listening devices specifically to assist the hard of hearing. Written materials are also available to help them follow the Mass and allow for participation.

Many of the deaf and hard of hearing are physically able to attend a Mass, but Ms. Rank notes only a small number of the population she serves choose to do so. Clearly all religious denominations have more work to do to make the deaf and hard of hearing feel welcome in their churches.

At the same time, many of the people who currently watch our Mass on television are not making a personal choice not to attend church. They cannot physically leave their homes to do so or they may be hospitalized or in nursing homes. The televised Mass is their link to the weekly celebration of the liturgy.

None of the commenters to our petition reside in the territory of the Diocese of Gaylord and because it is only broadcast locally, it is not available in their respective areas. It appears they are presenting their comments in support of the principle of closed captioning and do so without addressing the unique circumstances and limitations facing the Diocese of Gaylord as presented in our petition. Moreover, we would like to believe that the intent of these individuals and organizations, who appropriately wish to advocate for the rights of those who are deaf and hard of hearing in society, would not at the same time wish to limit or deny the rights of others with other disabilities.

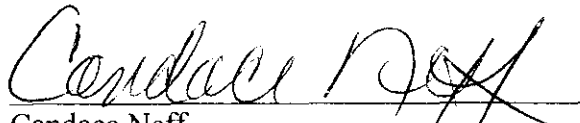
Further, we do not believe that it is within the spirit of compassion, justice or the law to enhance the rights of one group of people with disabilities by rescinding the rights of another group. If the Diocese of Gaylord is not granted an exemption to the closed captioning rules, we will be forced to cease televising the Mass. In that event, not only do the deaf and hard of hearing not gain improved access, but a much larger segment of our population who currently depend on the broadcast lose their access to the Mass as well.

Commenters Tonya Lenz, Arvilla Rank, Veronica Balcarcel and Carie Sarver all call for the FCC to support the deaf and hard of hearing by enforcing the closed captioning rules. Granting an exemption for the Diocese of Gaylord would, in fact, be in keeping with the closed captioning rules. The rules referred to do provide for exemptions in situations where closed captioning poses an undue burden which is defined as "significant difficulty or expense." We believe we have clearly demonstrated that to provide closed captioning does pose an undue burden for the Diocese of Gaylord. We are a small diocese in a rural area working with a very small television station. We produce one program, once a week, for a local audience. We believe ours is exactly the type of situation for which the allowance of an exemption was intended.

While we recognize the importance of closed captioning, given the totality of our circumstances, we are simply unable to do so at this time. We do intend to keep abreast of developments in technology in the hope that we will be able to provide closed captioning at some point in the future so that we may be even more inclusive to those suffering from deafness or hearing loss. We are committed to doing what we can to bring the Good News to all, regardless of their personal challenges. However, if our petition for an exemption is denied, we will be forced to discontinue broadcasting the Mass.

We therefore respectfully request the Federal Communications Commission uphold their previous decision and continue to grant the Diocese of Gaylord an exemption from the closed captioning rules.

Further, deponent sayeth not.


Candace Neff

STATE OF MICHIGAN)
) SS
COUNTY OF OTSEGO)

On this 7th day of May, 2007, before me a notary public, in and for said county, personally appeared CANDACE NEFF, known to me to be the person described in and who acknowledged that she has read the foregoing Affidavit, by her subscribed, and acknowledged that the same was true to the best of her knowledge, information and belief.

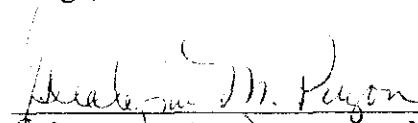

GERALDINE M. PUZOS, Notary Public
Acting in Otsego County, Michigan
My Commission Expires: 3-11-13

EXHIBIT 1

Exhibit 1

Territory of the Roman Catholic Diocese of Gaylord

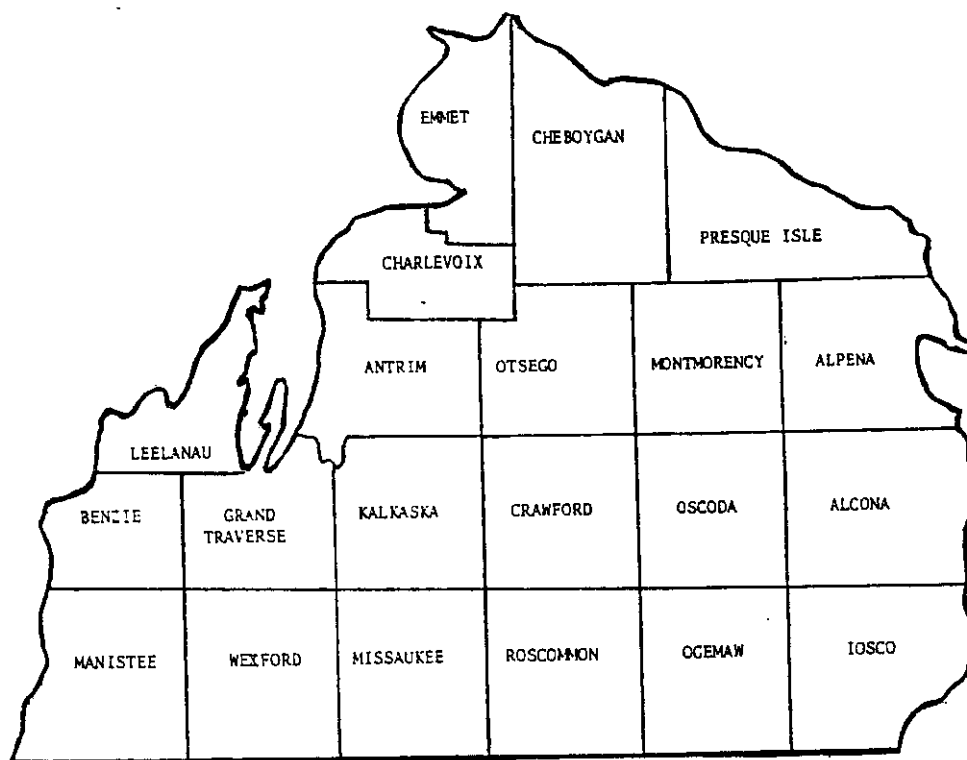


EXHIBIT 2

Exhibit 2

Territory of the Traverse City-Cadillac DMA

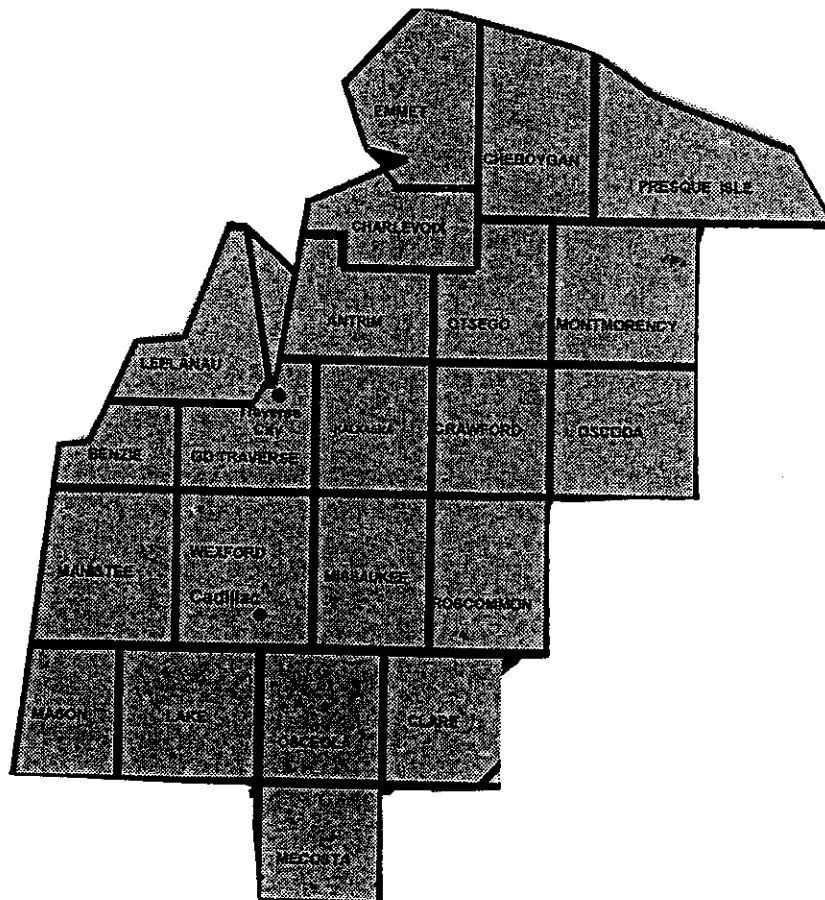
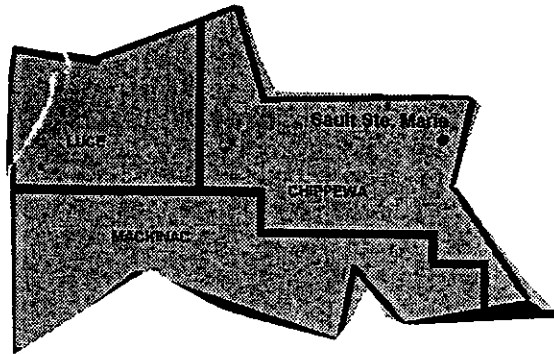


EXHIBIT 3

Exhibit 3

Excerpt from "Guidelines for Televising the Liturgy"

Given the communal nature of liturgical prayer, it may, at times, be preferable to televise some forms of prayer other than the eucharist, such as Morning or Evening Prayer, a Liturgy of the Word, or Scripture services. However, when a liturgy (especially the Sunday Mass) is to be televised, the following guidelines are suggested:

1. Responsibility of the Diocesan Bishop

The bishop of a diocese in which a televised Mass is produced has the responsibility to see that liturgical law is carefully observed, especially regarding the liturgical feasts and seasons, the use of approved liturgical texts and translations of Scripture, proper vesture, and ministers fulfilling their proper roles in the liturgy. Since these telecasts often cross diocesan lines, collegial responsibility should be exercised by the bishops involved (*SC*, #22 and *Inter Mirifica*, #20).

2. Live vs. Pre-recorded Celebrations

Whenever possible, the liturgy should be telecast live. When this is not possible, consideration may be given to pre-recording the liturgy. A liturgy that is pre-recorded for delayed telecast should be taped as it is celebrated in a local worshipping community and then be telecast at a later time on the same day. Only when neither of these options is possible, should the liturgy be taped in advance in a setting other than a regularly scheduled liturgy celebrated by a local worshipping community. In order to reflect the integrity of the liturgical year, a pre-recorded liturgy should be taped on a date as close as possible to the date of the actual telecast. In order to preserve the sacred character of the liturgical celebration, only one liturgy should be recorded on a given day with the same group of people.

3. Time Constraints

The celebration of the liturgy should not be rushed, nor should elements of the liturgy be omitted. Those responsible for planning, production, and presiding need to be sensitive to the requirements of the liturgy as well as the time constraints of television. For the integrity of the liturgy, those who produce the televised liturgy should be discouraged from editing out parts of the Mass (e.g., the Gloria, one of the readings). Planning and the careful choice of options can help to keep the celebration within the particular time frame.

4. The Assembly

No other single factor affects the liturgy as much as the attitude, style, and

bearing of the celebrant (*Music in Catholic Worship*, #21). Therefore, the priest who is to preside at a televised liturgy should be carefully chosen and properly prepared. Since the liturgy is the work of Christ and the work of God's people, the televised Mass should always be celebrated within a living community of God's people whose presence reveals the full, conscious and active participation of the faithful. Even when the liturgy to be televised is taped apart from a regularly scheduled parish liturgy, there should always be a group of people who participate in the liturgy as fully as possible by their prayer, song, and presence.

5. The Word

Whenever possible, the Word of God should be proclaimed in its entirety. When time is a concern, the short forms in the *Lectionary* may be used. Since the homily is an integral part of the liturgy and necessary for the nurturing of the Christian life, there should always be a homily for the televised Sunday Mass (*GIRM*, #41). The homilist needs to be sensitive to the needs of the gathered assembly and of those who will be viewing the telecast.

6. Music

Music is very important in televising liturgical celebrations. The televised Mass, especially on Sunday, should normally include the sung acclamations; i.e., Alleluia, Holy, Holy, Memorial Acclamation, Great Amen. Ideally, the responsorial psalm should also be sung. Other appropriate songs may be sung as time permits. Additional musical selections should correspond to their placement in the liturgy and not simply be used as occasions for performance. The use of pre-recorded music, even to accompany the congregation's singing, is not appropriate for the liturgy (*Music in Catholic Worship*, #54 and *Liturgical Music Today*, #60).

7. Liturgical Environment

When using a setting other than a church or chapel, every effort should be made to create an environment which is fitting and conducive to the celebration of the liturgy (*GIRM*, #253). Provision should be made for proper vesture, worthy vessels, appropriate liturgical furniture, suitable musical instruments, and an arrangement of the liturgical space that encourages a reverent posture and attitude of the participants.

EXHIBIT 4